

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**PATRICIA A. BAILEY,**

**Plaintiff,**

**v.**

**MICHAEL J. ASTRUE, COMMISSIONER OF  
SOCIAL SECURITY,**

**Defendant.**

**CIVIL ACTION  
No. 08-2321-KHV**

**ORDER**

This matter is before the Court on Defendant's Motion to Remand (Doc. # 6) filed November 20, 2008. Plaintiff has not responded to the motion, which will be considered and decided as an uncontested motion. D. Kan. Rule 7.4. Defendant seeks remand of this matter pursuant to "sentence six" of 42 U.S.C. § 405(g), which provides

[T]he Court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner's answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security . . . .

42 U.S.C. 405(g). The Court may remand a Social Security case pursuant to sentence six without ruling on the merits if the Commissioner requests remand for good cause before filing his answer. See Nguyen v. Shalala, 43 F.3d 1400, 1403 (10<sup>th</sup> Cir. 2003).

In his briefing, the Commissioner asserts that remand is necessary to "develop and clarify the record with respect to plaintiff's alleged mental impairment during. . . August 1996 through December 1997." The Commissioner proposes that plaintiff's treating psychologist be re-contacted for her mental health treating records pursuant to 20 C.F.R. § 404.1512(e), that plaintiff's alleged or reported mental impairments be further evaluated pursuant to 20 C.F.R. §§ 404.1508 and 404.1520a based on the expanded record, and that plaintiff be provided the opportunity for another

administrative hearing.

Having considered the Commissioner's motion and memorandum, having reviewed the file in this case, and noting that plaintiff has not opposed the Commissioner's motion, the Court finds that the need to further develop the record constitutes good cause for remand pursuant to sentence six of 42 U.S.C. § 405(g).

**IT IS THEREFORE ORDERED** that Defendant's Motion to Remand (Doc. # 6) is **SUSTAINED** and this case is **REMANDED** for further administrative proceedings to determine whether plaintiff is disabled within the meaning of the Social Security Act. Pursuant to sentence six of 42 U.S.C. § 405(g), the Court retains jurisdiction and judgment should not be entered.

**IT IS FURTHER ORDERED** that the Clerk shall administratively terminate this action without prejudice to the rights of the parties to reopen the proceedings for good cause shown, for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

Dated this 2nd day of February, 2009 at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge